

Serial No. 8/917,044

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polyethylene resin and (2) a substantially continuous barrier film of fluorinated polyethylene to impede the migration of PCR contaminants, said film formed on the surface of and in intimate contact with said layer, said film occurring at a portion of said part of said wall wherever said layer occurs and being located, at said portion, toward the interior of said container from said post-consumer recycled resin.

Claim 59, line 4, after "said", add --post-consumer recycled polyethylene--.

### REMARKS

Applicant first expresses his appreciation to Examiner Hayes for the courtesies extended to his undersigned attorney during a telephone interview held on December 29, 1998. The present AMENDMENT sets forth and accords with the substance and results of that interview.

The December 18, 1998, Office action first rejected Claims 1 and 3 to 22 under 35 U.S.C. § 112, first paragraph. The rejection concerned a "second continuous barrier layer" and whether it appears in the claims. Initially, the prior amendment added an explicit statement of a barrier layer to Claim 2. Thus, Claim 2 and its dependencies, Claims 3 to 22, all include the barrier layer. Accordingly, the rejection only applies to Claim 1.

The examiner is correct in that Claim 1 only recites the indicated two layers of polyethylene on the outside and polypropylene on the interior (with intimate contact between them). However, Applicant believes that this structure itself has patentability. The problem, as stated by Examiner Hayes in the telephone interview, concerned a basis in the application for this claimed structure. However, Claim 1, as originally filed, and the statement on page 4, last paragraph, of the application, provide a basis for this claim. Examiner Hayes appeared to agree that these citations provide a proper basis for Claim 1.

Further, the December 18, 1998, Office action rejected Claims 1 to 59 under 35 U.S.C. § 112, second paragraph. In making the rejection, the examiner questioned the omission from the claims of any requirement that the container hold "human consumable substances". Applicant respectfully traverses this rejection.